

ZIPWHIP, INC. WC DOCKETS 95-155 AND 08-7

FEBRUARY 5, 2018

Somos's Cries of Wolf are Unpersuasive

- Somos's claims of an "urgent need" for action ring hollow
 - Well over 1 million toll-free numbers are actively using text today. These include major brands like Nestle, Butterball, Google and Instagram
 - Yet, Somos still relies on hypothesized harms to justify a land grab for its proprietary database. There remains no evidence that subscribers are having their numbers improperly text-enabled
- The principle of subscriber control over its number is alive and well in the texting industry, including toll-free texting
 - Zipwhip uses the same processes for 10-digit landline business numbers without problems

Zipwhip's Authentication of Toll-Free Users is Working

- Zipwhip's verification process is consistent with CTIA messaging guidelines
- Zipwhip continues to refine its processes, as one would expect in a functioning, competitive market.
 - During 2017, Zipwhip enhanced its spam protection procedures
 - For 2018, Zipwhip will introduce a 3rd party verification process that will provide direct and indirect (i.e. reseller) customers access to the higher A2P throughputs of Zipwhip's texting solutions

Somos's Declaratory Ruling Petition Should Be Denied

- **Procedurally improper**
 - Inconsistent with declaratory ruling purpose, to clarify existing rules not substantively change it or essentially create a new rule
 - Identifies no statutory provision, rule or order that imposes the requirements it seeks or is related to texting to toll-free
- **Not wise policy**
 - Proposal would undermine subscriber control and insert RespOrgs in a controlling position
 - Requested mandate would hinder innovation and potentially damage a rapidly evolving marketplace
- **Not needed**
 - Industry-consensus guidelines in place to deal with proper verification and consumer protection; Zipwhip compliant with these

Somos's Request Is Contrary To Chairman Pai's Regulatory Philosophy

<p>"Consumers benefit most from competition, not preemptive regulation. Free markets have delivered more value to American consumers than highly regulated ones." – Pai Regulatory Philosophy</p>	<p>➤ Somos's request shuns competition in favor of a regulated market</p>
<p>"No regulatory system should indulge arbitrage; regulators should be skeptical of pleas to regulate rivals, dispense favors, or otherwise afford special treatment." - Pai Regulatory Philosophy</p>	<p>➤ Somos's request seeks regulatory favors</p>
<p>"One could read the entire document . . . without finding anything more than hypothesized harms. Or, in other words, public-utility regulation was a solution that wouldn't work for a problem didn't exist." – Speech to Free State Foundation (Dec. 2016, discussing Open Internet Order)</p>	<p>➤ Somos's request relies on hypothesized harms</p>
<p>"Proof of market failure should guide the next Commission's considerations of new regulations. And the FCC should only adopt a regulation if it determines that its benefits outweigh its costs." – Speech to Free State Foundation (Dec. 2016)</p>	<p>➤ Somos's request doesn't show market failure</p>
<p>"A . . . key FCC priority is promoting innovation across the communications industry." "We want to encourage innovation throughout the Internet economy. That means innovation not just at the edge of the network, but within the networks themselves." – Speech to AEI (May 2017)</p>	<p>➤ Somos' request undermines innovation, relies on a 1980's regulatory solution</p>

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And as Susan Dudley, George W. Bush's regulatory czar once noted, "Anecdotes about outcomes we don't like do not indicate market failure, nor do they present a sufficient argument for government intervention." – Speech to Hudson Institute (Apr. 2017)	➤ Somos's petition has anecdotal possibilities and no actual demonstration of market failure
"In most cases, [old rules that have been on the books for a while] simply don't reflect the marketplace of today; and in some, they affirmatively harm consumers and competition by diverting investment and impeding innovation. – Testimony to House E&C Communications Subcommittee (Oct. 2017)	➤ Applying 1980s rules to the toll-free texting market of today would impede innovation in text enabling of numbers
"Our role at the FCC isn't to support any particular company or industry. Instead, we seek to foster a light-touch regulatory framework that permits all types of companies to compete in the communications marketplace. And then we'll let American consumers choose who succeeds and who doesn't. After all, competition is a far better guarantor of consumer welfare than preemptive regulation." Remarks at Cato Institute Policy Perspectives 2017 (Nov. 2017)	➤ Somos seeks to replace a competitive framework with preemptive regulation of toll-free texting